Chapter 15. DEVELOPMENT PROCESS

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15.1 Purpose and Intent

In order to establish an orderly process to develop land within the jurisdiction of the City of Salisbury consistent with standard development practices and terminology it is the purpose of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, City staff and related agencies, Boards and Commissions, and the City Council. The intent of this Chapter is as follows:

- *To ensure that land, parcels, and lots are appropriately subdivided so that their use and development complies with all applicable requirements of this Ordinance;*
- *To ensure that development is in a manner generally harmonious with surrounding properties and without the endangerment of the health, safety, and general welfare of existing, prospective, or future owners, users, surrounding and adjoining properties, and the public; and*
- *To provide for the adequate and efficient provision of facilities and/or infrastructure, and the dedication of land, rights-of-way, and easements, so as not to burden the fiscal resources of the City. This includes the construction of buildings and utilities, streets and sidewalks, landscaping, recreational open spaces, and other provisions required for the public good of the City of Salisbury.*

The Salisbury City Council shall adopt from time to time, a schedule of fees and review schedule for application and processing as specified in this Ordinance.

15.2 General Applicability

The provisions of this Chapter shall be applicable to all development activity under the jurisdiction of the City of Salisbury. No building, sign or other structure (except as otherwise provided for in this Ordinance) shall be erected, moved, extended or enlarged or structurally altered, nor shall the use conducted within the building change, nor shall any excavation or filling of any lot for the construction of any building be commenced, nor shall any change in the use of a property be commenced until the Administrator has issued an applicable permit for such work. The issuance of a permit is subject to the required development review process as applicable for the development petition. No grading or infrastructure work may commence prior to the issuance of a Zoning or Development Permit.

15.3 Public Notification for Public Hearings

Public notification made in the manner described below is required for Special Use Permits, Map Amendments (Rezonings), Text Amendments, Conditional Districts, and Vested Rights. Notification of these and all required public hearings shall be as follows:

A. **Newspaper Notice:** A notice shall be published in a newspaper having general circulation in the City once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.

B. **Notice to be posted in City Hall:** Notice shall also be posted in a conspicuous location in City Hall at least ten (10) days prior to the public hearing. Both notices shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

C. **Sign to be Posted:** A prominent sign shall be posted on the subject property(ies) beginning not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing. Such notice shall state the location of the public hearing and a phone number to contact during business hours for additional information. The sign shall remain until after the decision-making authority has rendered its final decision.

D. **First-Class Mail Notification:** A notice of the proposed section of the proposed action shall be sent by first class mail by the Administrator to the following owners of property as shown on the county tax listing; the property in question, all parcels of land abutting that parcel (including land immediately across a public street or alley), and all parcels of land within 100 feet of that parcel..

E. **Alternate Notification for Rezoning more than 50 Properties:** First-class mailed notification shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners. In this case, the City shall publish once a week for two successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed Ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the City's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the City Council that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, the City shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

15.4 Administrative Permit Procedures - General Provisions

Upon receipt of a complete application, the Administrator shall approve, approve with conditions, or deny the application. Applications that are denied shall have the reasons for denial, in writing, attached to the application.

A. Permit Not Required: Not withstanding any other provisions of this Ordinance, a zoning permit is not required for the following uses:

1. Street construction or repair by NCDOT or the City of Salisbury.

2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way in accordance with all applicable municipal franchise agreements.

3. Specific signs exempted in Chapter 12.

4. Mailboxes, newspaper boxes, fences, flag poles, pump covers and any other structure less than 144 square feet in area.

B. Waiver of Certain Application Requirements: The Administrator may waive certain application requirements if it is determined that the submission of a complete Development Plan in accordance with Chapter 16, Development Requirements, would serve no useful purpose.

1. Signs

2. Interior alterations and renovations that require a county building permit which does not alter the footprint or height of an otherwise conforming use and/or structure (i.e. HVAC, re-roofing, steps, or siding) except in a designated Historic District, etc.

3. Accessory structures for all building types; or

4. Any enlargement of a principal building by less than twenty percent (20%) of its existing size provided such enlargement will not result in site or landscaping improvements or the expansion of parking areas; or

5. A change in principal use where such change would not result in a change in lot coverage, off-street parking access or other external site characteristics.

C. Expiration of Permit: Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

D. Compliance and Violations: Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differs from that authorized by the zoning permit shall be deemed a violation of

this Ordinance and shall be subject to civil penalties per Chapter 17, Violations and Penalties.

E. Right of Appeal: If a request for a zoning permit is disapproved or if a ruling of the Administrator is questioned, any aggrieved party may appeal such ruling to the Zoning Board of Adjustment in accordance with Section 15.15, Administrative Appeals.

F. Certificate of Occupancy: No structure shall be occupied until a Certificate of Occupancy has been issued by the Administrator. Any Certificate of Occupancy issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit and with all applicable provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the office of the Administrator and copies shall be furnished, on request, to all interested parties. If a Certificate of Occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant. Where certain infrastructure or site elements have not been installed (i.e. landscaping due to time of year), a Temporary Certificate of Occupancy may be issued by the Administrator. Temporary Certificates shall remain valid for a period of 180 days and there shall be no extension beyond that 180-day period.

G. Modification of Dimensional Standards

1. The Administrator is authorized to approve requests that deviate from required setbacks set forth in this Ordinance by up to ten (10%) percent of the required setbacks or 24 inches, whichever is greater, upon determination that one or more of the following conditions exists:

a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.

b. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.

c. The proposed structure will allow the preservation of significant existing vegetation.

d. A good faith error was made in the location of a building foundation not exceeding one (1) foot due to either field construction or survey error.

2. The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory and the Administrator may decline to make such modification. In the event this occurs, the applicant shall have the right to submit an application to the Zoning Board of Adjustment to grant a variance to these requirements.

3. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this Chapter, or an applicant's right to appeal the decision of the Administrator to the Zoning Board of Adjustment.

15.5 Predevelopment Site Grading Permit

Permits for predevelopment grading shall be required for any land disturbing activity of one acre or more that is not regulated by a previously approved site plan. Grading shall be considered "low impact" or "high impact" in accordance with the provisions of Section 6.4, Pre-Development Site Grading.

A. **Low Impact Activity:** For a low impact activity, a predevelopment site grading permit can be secured following a review and approval by the Administrator. If denied by the Administrator, the Administrator shall state in writing the reason(s) for the denial. If the Administrator denies issuing the permit, the matter may be appealed to the Zoning Board of Adjustment.

B. **High Impact Activity:**

1. For a high impact activity, a predevelopment site grading permit shall be reviewed and recommended by the Technical Review Committee before being considered for approval or denial by the City Council.

2. **Land Disturbing Activity Within 100 feet of Residential District:** In the case of high impact activity number 1 (Sec. 6.4: "Land disturbing activity is within 100 feet or less from a residential district."), property owners within 100 feet of any land disturbing activity shall be notified in writing, by first class mail, of a city public hearing to be conducted prior to the City's consideration of issuance of the permit.

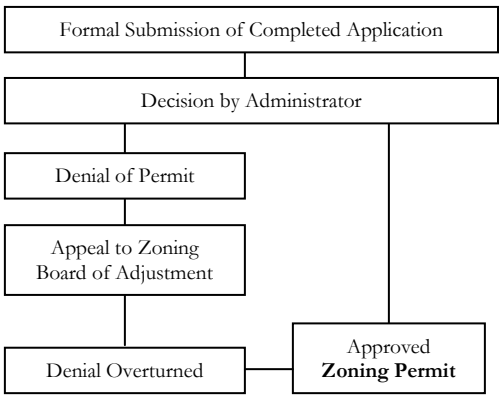
15.6 Zoning Permits

A. Applicability: A Zoning Permit is required for the approval of all applications for individual buildings, signs, and all other development applications not otherwise covered by other procedures in this Chapter.

B. Case Management: The Administrator, or their designee, shall assign a case number to all Zoning Permits for processing and permanent tracking. Following original approval of the case, any and all changes to the Schematic Plan shall be considered modifications to the original and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved Schematic Plans for the same property or properties are prohibited.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3) w/Building Design Plans (16.12)	Administrator	Zoning Permit Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.7 Certificate of Appropriateness

A. Applicability

- Buildings and Structures in Locally Designated Historic Districts
- Locally Designated Historic Landmarks
- Demolition of a Designated Landmark

B. Certificate of Appropriateness Required

1. No exterior portion of any building or other structure (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign nor any tree larger than 18 inches in diameter at 4½ feet above the ground shall be erected, altered, restored, moved or demolished on a landmark, or within the historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. However, in the case where a tree may be diseased or severely damaged, it can be removed and shall be replaced with a similar type plant material contained on the plant list of the Design Guidelines with a minor works approval. In addition, nothing in this section would prevent the removal of a tree that is an immediate danger to life or property.

Exterior features shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.

2. Such a certificate shall be issued by the commission prior to the issuance of a zoning permit or other permit granted for purposes of constructing, altering, moving or demolishing structures. A certificate of appropriateness shall be required whether or not a zoning permit is required. Therefore, a certificate of appropriateness is a prerequisite to the issuance of such a zoning permit or such other permits. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.

3. The State of North Carolina, the City of Salisbury and all public utility companies shall be required to obtain a certificate of appropriateness for landmarks and in the historic district prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the City of Salisbury or public utility companies.

C. Criteria to determine appropriateness: The following review criteria, along with companion design guidelines and the guidelines of the secretary of the interior, shall be considered, where relevant, to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the designated landmark or district:

1. Building height.

2. Walls.

3. Proportion of width to height of the total building facade.

4. Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration.

5. Spacing of buildings, defined as the distance between adjacent buildings.

6. Building materials.

7. Surface textures.

8. Color.

9. Expression of architectural detailing.

10. Roof shapes.

11. Scale.

12. Orientation of the building to the street.

13. Ground cover or paving.

14. Signs.

15. Exterior lighting and appurtenant features.

16. The commission shall adopt principles and guidelines interpreting these criteria for new construction, alterations, additions, moving and demolition of landmarks or properties in the historic district.

D. **Certificate of Appropriateness Not Required:** Examples of specific items which fall under ordinary maintenance or repair that will not require a certificate of appropriateness are:

1. Underground utilities, except where archaeological finds or sites are uncovered;

2. Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;

3. Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;

4. Deletion or replacement of poles of standard material and height, not to exceed forty-five (45) feet;

5. Addition or deletion of fire hydrants;

6. Routine replacement of street signs;

7. Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;

8. Addition of equipment on existing lines or poles;

9. Replacement of existing overhead lines, poles or ground-mounted installation.

E. Certificate of Appropriateness for Demolition

1. An application for a certificate of appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within historic district may not be denied except as provided in paragraph (2) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.

2. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where:

a. The commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial; or

b. The city has adopted a demolition ordinance under the minimum housing code.

3. If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to one hundred eighty (180) days or until the City Council takes final action on the designation, whichever comes first.

F. Authentic Restorations

1. In the event that the commission, in considering an application for a certificate of appropriateness, shall find that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet

zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the zoning board of adjustment authorizes such as a special exception and no use other than that permitted in the district in which such is located is made of said property. Such conditions as may be attached to the historic preservation commission approval and those conditions as may be set by the zoning board of adjustment shall be included in any certificate of appropriateness related thereto.

2. If the commission finds that an application for a certificate of appropriateness concerning any porches, steps, posts, fences, walls or other items extending over, on or within public rights-of-way to be necessary for the authentic restoration, reconstruction or maintenance thereof, and will not impede or block pedestrian traffic or constitute a hazard to public safety, such findings shall be transmitted to City Council for its consideration in authorizing or denying such encroachments into rights-of-way.

3. If the Council authorizes such encroachment, any items restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the City of Salisbury blameless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof. The lowest point of any such item projecting over any sidewalk shall be at least nine (9) feet above the sidewalk immediately below.

G. **Minor Works:** A Certificate of Appropriateness application, when determined to involve a minor work, may be reviewed and approved by the Administrator ("Staff Approval") or the Minor Works Committee. The Minor Works committee consists of the Historic Preservation Commission Chairman and Vice-chairman and the Administrator. Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property in the historic district.

An application may receive a certificate of appropriateness from the committee if it falls under the list of minor works provided in the Historic Preservation Commission Rules of Procedure. If the committee does not issue a Certificate of Appropriateness, the applicant will be advised to make a formal application to the Historic Preservation Commission. No application may be denied without formal action by the Historic Preservation Commission.

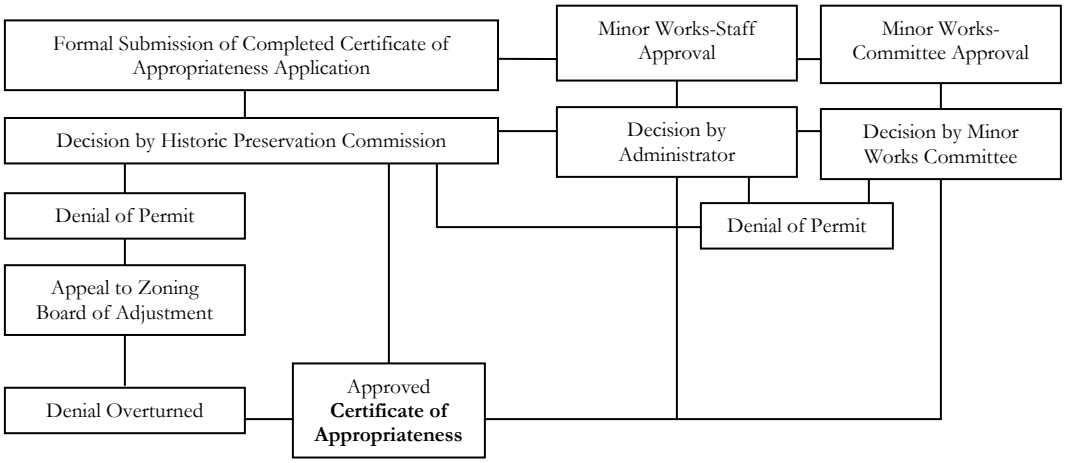
H. **Effect of Certification of Appropriateness Approval:** Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a Certificate of Appropriateness by the Historic Preservation Commission. The application and the duly approved minutes of the commission shall constitute the written documentation of such issuances. Following the meeting a Certificate shall be mailed to the property for which a certificate has been issued. The Certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a Historic Preservation Commission meeting shall be approved before the end of the next meeting.

I. Expiration of Certificate: A Certificate of Appropriateness shall be valid for a period of six (6) months from the date of issuance for the purpose of obtaining a Zoning Permit or other permit for constructing or altering structures. A Certificate of Appropriateness shall expire six (6) months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six (6) months, the permit therefore shall immediately expire.

J. Demolition by Neglect Prohibited: RESERVED

K. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Certificate of Appropriateness – for Minor Works-Staff Approval	Administrator	COA Issued	Minor Works Committee
Certificate of Appropriateness – for Minor Works-Committee Approval	Minor Works Committee	COA Issued	Historic Preservation Commission
Certificate of Appropriateness Schematic Plan (16.4)	Historic Preservation Commission	COA Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.8 Minor Site Plan

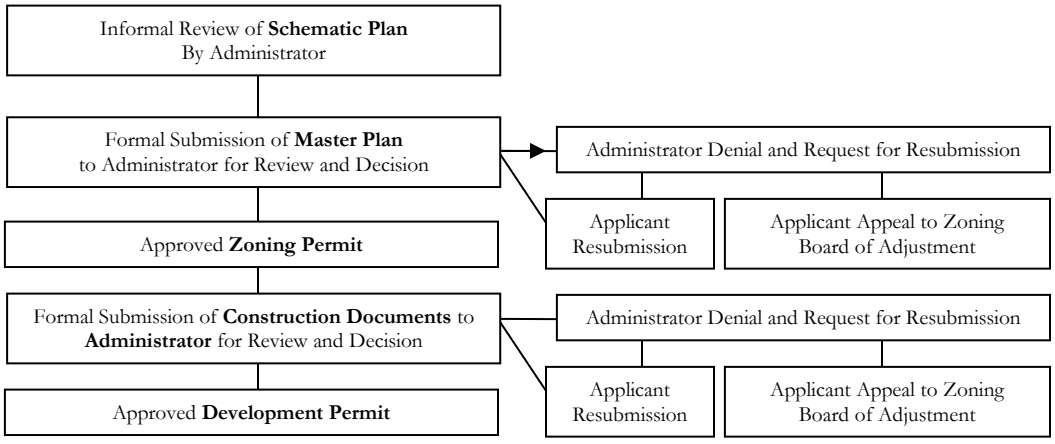
A. Applicability:

- Multi-family less than 8 units
- Non-residential development less than 10,000 square feet
- Industrial development

B. Case Management: The Administrator, or their designee, shall assign a case number to all Minor Site Plans for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Master Plan (16.4)	Administrator	Review for Completeness & Ordinance Compliance Zoning Permit Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment
Construction Documents (16.5) (if applicable)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued - **or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.9 Major Site Plan

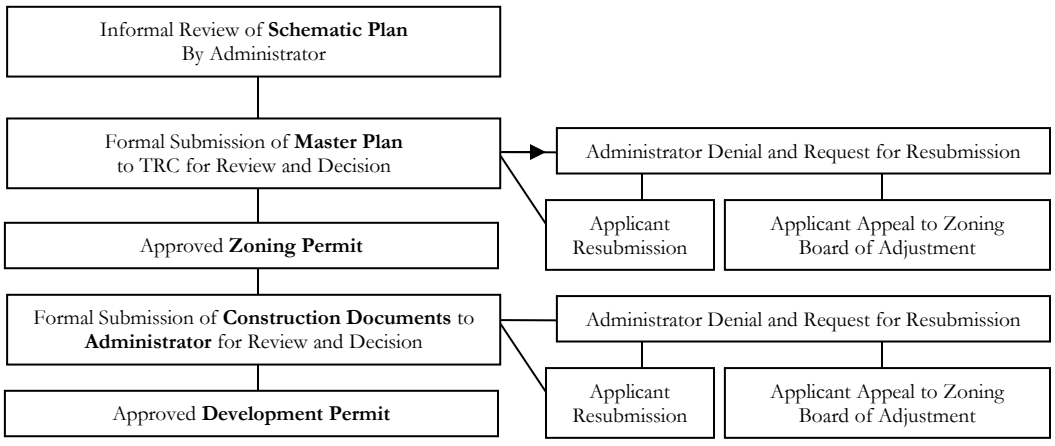
A. Applicability:

- Multi-family with 8 or more units
- Non-residential development 10,000 square feet or greater

B. Case Management: The Administrator, or their designee, shall assign a case number to all Major Site Plans for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Master Plan (16.4)	Technical Review Committee (TRC)	Review for Completeness & Ordinance Compliance Zoning Permit Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued - **or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.10 Subdivision Procedures - General Provisions

A. Case Management: The Administrator, or their designee, shall assign a case number to all subdivision plats for processing and permanent tracking. Following original approval of the case, any and all changes to the plat shall be considered modifications to the original plat and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plats for the same property or properties are prohibited.

B. Approval to Proceed with Construction Activity: Grading, soil erosion control, and infrastructure construction activities shall not commence before a Final Plat has been properly approved and recorded for a Minor Subdivision or Construction Document approval for Major Subdivisions as prescribed by this Chapter.

C. Preliminary Plat:

1. **Approval Duration:** The approval of the Preliminary Plat shall become null and void within three (3) years, unless the developer has completed required improvements (or posted the appropriate guarantee of improvements) and submitted for approval the final plat as required by this ordinance or shall have applied for and received an extension of time from the Administrator. The Technical Review Committee may, at its discretion, require a Preliminary Plat to adhere to any new requirements before granting this extension. If a Preliminary Plat becomes null and void, the subdivider may resubmit for an updated approval; however, the resubmitted Preliminary Plat may be subject to any new requirements for Preliminary Plats in effect at the time reapproval is sought, and fees shall be paid at fifty percent (50%) of current standard fees.

2. **Multiple Phases Not Approved:** Approval of a Preliminary Plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the City of any remaining phases. For approved Preliminary Plats consisting of multiple phases, only the phase that is to be developed for sale immediately (or have been guaranteed in accordance with 15.10.C.2 below) shall be submitted for Final Plat approval.

D. Final Plats:

1. **Improvements Required:** The Final Plat shall constitute a complete phase of the approved Construction Documents. No Final Plat shall be approved unless and until the developer has installed in that area all improvements required by this Ordinance or has posted any required improvement guarantees approved by the Administrator and prescribed by this Ordinance in Section 9.11, Installation of Improvements.

2. **Plats to be Recorded:** Approved Final Plats shall be filed by the applicant for recording with the Register of Deeds of Rowan County within thirty (30) days of the date of approval by the Administrator; otherwise, such approval shall be null and void.

E. Record Plats:

Map for recordation submittal: Any map for recordation that does not constitute a subdivision shall be submitted to the subdivision administrator who shall determine that the requirements of this ordinance are not applicable. Such determination shall be affixed to the map for recordation as shown in section 16.8., Record Plat Requirement. One (1) print shall be retained by and become a permanent record of the City. There shall be no filing fee for such a map.

15.11 Exception Plat Subdivision

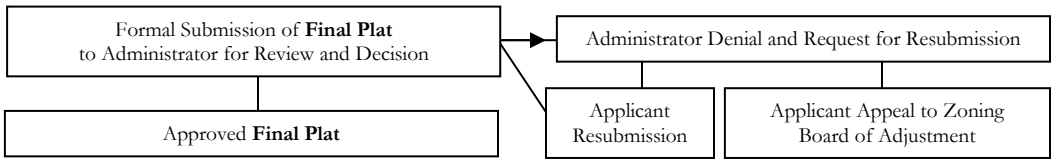
A. Applicability:

An Exception Plat is:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as required by this ordinance;
- The division of land into greater than ten (10) acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors; or
- The division of a tract in single ownership whose entire area is no greater that two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as required by this ordinance.

B. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.12 Minor Subdivision

A. Applicability:

A Minor Subdivision is a subdivision of land:

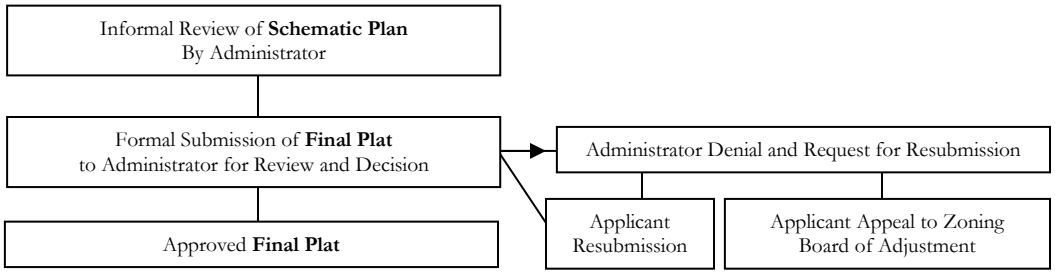
- Involving not more than four (4) lots fronting on an existing approved street; and
- Not involving any new street or prospectively requiring any new street for access to interior property; and
- Not requiring extension of public sewage or water lines to serve properties at the rear; and
- Creating no new or residual parcels not conforming to the requirements of these regulations and related ordinances; and
- Not being located partially or entirely within a WS-IV-PA (Watershed) Zoning overlay

The draft plat shall show the location of the nearest public water and sewer systems. Within the city limits, if any portion of the original tract lies within two hundred (200) feet of a public sewer main, or within three hundred (300) feet of a public water line, all newly created lots shall have direct access to the respective public utility. If a utility extension is necessary to meet this requirement, the development will not qualify as a minor plat subdivision.

The abbreviated procedure may not be used a second time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries by anyone who owned, had an option, or any legal interest in the original property at the time the minor subdivision received final plat approval.

B. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



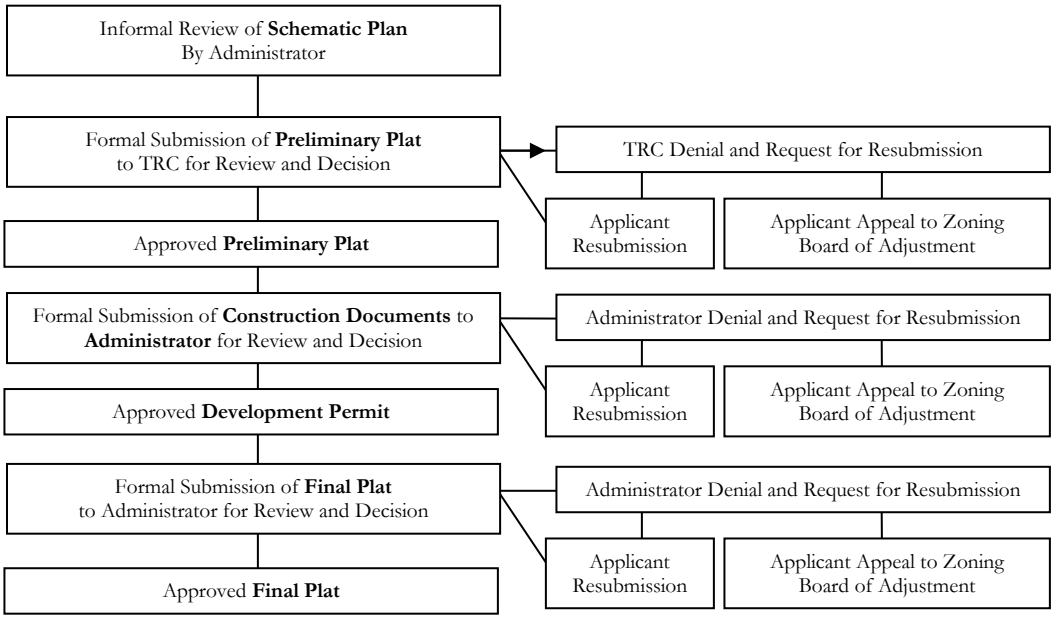
15.13 Major Subdivision

A. Applicability:

A Major Subdivision is a subdivision of land that exceeds the minimum thresholds for Exception Plats and Minor Subdivisions.

B. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Preliminary Plat (16.4)	Technical Review Committee (TRC)	Review for Completeness & Ordinance Compliance Preliminary Plat Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued - **or-** Denial and Request for Resubmission	Zoning Board of Adjustment
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.14 Quasi Judicial Proceedings – General Provisions

A. **Purpose:** This section provides for the discretionary evaluation of certain applications by requiring that certain decisions follow "quasi-judicial" proceedings which are public evidentiary hearings. These evidentiary hearings include testimony provided under oath and the findings of fact supported by competent, substantial, and material evidence. Specifically, these quasi-judicial procedures are applied to Administrative Appeals, Variances, and Special Use Permits.

B. **Judicial Appeals:** Every quasi-judicial decision of the Zoning Board of Adjustment or the City Council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after a decision is filed in the office of the City Clerk, or after a written copy is delivered to every aggrieved party who has filed a written request for such copy with the Administrator at the time of the hearing of the case, whichever is later.

C. **Quasi-Judicial Procedures:**

1. **Witnesses:** Any person intending to present testimony shall be treated as a witness. The Administrator and any staff member shall be treated as a witness when 1) defending an interpretation of this Ordinance, 2) stating what is perceived to be facts of a case, or 3) making a recommendation concerning the outcome of a case. All witnesses shall be sworn by the Mayor or board chair before the opening of the public hearing.

2. **Public Hearing:** A public hearing shall be held on each quasi-judicial case. The Mayor or board chair shall make it clear when the public hearing is opened and closed; however, the public hearing may be continued to another meeting if the motion to continue specifies when and where the continued public hearing will be held. Once the public hearing is closed, the vote may occur at the same meeting or carried over to future duly-noticed meeting.

3. **Deliberation:** Following closure of the public hearing, the City Council or Zoning Board of Adjustment must deliberate on the evidence provided during testimony and the ordinance standards applicable to the case in order to make conclusions of law explaining the logic behind the impending decision. The findings of fact must be designed to summarize all evidence, allowing conclusions of law to be made about how the ordinance standards apply to the case.

4. **Voting:** All quasi-judicial decisions require a concurrent supermajority 4/5 vote of the City Council or Zoning Board of Adjustment membership. For the purposes of calculating this supermajority, membership shall not include vacant positions and those who are disqualified from voting.

5. **Findings of Fact & Conclusions of Law:** Following adjudication of the case, the Administrator, or their designee, shall prepare the Findings of Fact and Conclusions of Law for review and approval at the next meeting.

6. **Rehearing:** An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of adjudication. In addition, specific information to enable the City Council or Zoning Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the City Council or Zoning Board of Adjustment, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held to consider holding such a rehearing.

15.15 Administrative Appeals

A. Applicability: The Zoning Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Administrator, the Technical Review Committee, or the Historic Preservation Commission and apply such interpretation to particular fact situations.

B. Applicant with Standing: An appeal may be made by any aggrieved party or by any officer, department or board of Salisbury who has received a ruling from the Administrator, the Technical Review Committee, or the Historic Preservation Commission upon the submission of a completed application. An appeal to the Zoning Board of Adjustment shall be made within thirty (30) days of the decision, order, determination, or interpretation made by the Administrator. An appeal shall be placed on the Zoning Board of Adjustment agenda within 30 days of filing. The filing of any application stays all proceedings unless the Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Adjustment or by a judicial court of law.

C. Board Powers and Responsibilities: The Zoning Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed. The Zoning Board of Adjustment shall have all the powers of the Administrator in making any order, requirement, decision, interpretation or determination with reference to an appeal or petition.

D. Supermajority Required: The concurrent supermajority vote shall be necessary to make an interpretation of the Ordinance, reverse any order, requirement, or decision or determination of the Administrator. All decisions of the Zoning Board of Adjustment shall be in writing and filed with the Administrator.

15.16 Variances

A. Applicability: When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Zoning Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance.

B. Applicant with Standing: A petition for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or

a person having a written contractual interest in the affected property upon the submission of a completed application. The filing of any application stays all proceedings unless the Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Adjustment, City Council or by a judicial court of law.

C. Required Findings & Conclusions of Law: The Zoning Board of Adjustment may only grant a variance having first held a public hearing on the matter and having made the following determinations:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; and

2. That the variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and

3. That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done; and

4. That the reasons set forth in the application justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

5. That if the applicant complies with the provisions of this Ordinance, can secure no reasonable return from, nor make any reasonable use of the property.

The following are not cause for a variance:

- The citing of other nonconforming or conforming uses of land or structures in the same or other districts.
- The request for a particular use expressly, or by inference, prohibited in the district involved.
- Economic hardship or the fact that property may be utilized more profitably with a variance.

D. Board May Apply Conditions to Motion: The Zoning Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Chapter 19.

E. Supermajority Required for Decision: The concurrent supermajority vote shall be necessary to grant a variance. All decisions of the Zoning Board of Adjustment shall be in writing and filed with the Administrator.

F. Time for Decision: Except for minor variances noted in Section 15.16.G.1, the Zoning Board of Adjustment shall hold a public hearing on an application no later than 60 days after a complete application has been filed with the Administrator. The Zoning

Board of Adjustment shall decide on the matter which was presented at the public hearing within 31 days of the close of the public hearing.

G. Effect of Denial-Time to Resubmit: Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

15.17 Special Use Permits

A. Purpose: Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

B. General Requirements:

1. Only those uses enumerated as Special Uses in a zoning district shall be authorized by the City Council.

2. The evaluation and approval of the Special Use Permit shall be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following standards:

a. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

b. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and

c. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

3. In approving an application for a Special Use Permit, the City Council may attach fair, reasonable, and appropriate conditions on the location, nature, and extent of the proposed use. The City Council may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner. The applicant shall have up to thirty (30) calendar days to consider and respond to any additional requirements prior to approval or denial by the City Council.

4. The applicant shall secure a valid building permit within a twelve (12) month period from date of approval of the Special Use Permit unless otherwise specified.

C. **Effect of Approval:** If an application is approved, the Special Use Permit that is established and all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. The applicant shall record the approved Special Use Permit and submit a copy to the City. The authorization of Council for a Special Use Permit and all supporting documentation shall become a part of the certificate of occupancy.

D. **Substantial Changes:** Any substantial change to a Special Use Permit that results in the increase of the intensity, density, or character of the use shall be approved or denied by the City Council as an amended Special Use Permit. Minor field alterations or minor revisions to approved Special Use Permits may be approved by the Administrator if the Special Use still meets the intent of the standards established with the original approval.

E. **Appeal:** The determination of the Salisbury City Council shall be conclusive and final and there shall be no further appeal to the Zoning Board of Adjustment or any other administrative board or commission except the State Superior Court. A request for a review may be made in the same manner as an original request. Evidence in support of the request shall initially be limited to that which is necessary to enable council to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. It shall thereupon treat the request in the same manner as the original request. Otherwise, the Council may terminate any further consideration of such request. The City Council may, however, review its authorization and the conditions thereof and after such review may modify or change the conditions of the Special Use Permit or may terminate the Special Use Permit only upon agreement with one or more of the criterion set forth in 15.17.G.3, below. Any appeal for administrative review concerning the enforcement of a Special Use Permit shall be to the Salisbury City Council.

F. **Rescission of Special Use Permits:**

1. If such project is not complete and a valid building permit is not in place at the end of the twelve (12) month period, the Administrator shall notify the applicant of either such finding. Within thirty (30) days of said notification, the Administrator shall make a recommendation concerning the rescission of the Special Use Permit to the City Council. The City Council may then rescind the special use, or extend the special use district for a specified period of time.

2. Other criteria for which a Special Use Permit may be rescinded or terminated shall be as follows:

a. Non-compliance with adopted conditions.

b. Expressed diminution of value of surrounding properties that may only be found during the evidentiary hearing and made a part of the Findings of Fact.

c. Expressed negative effects related to the general safety, health, and welfare of the surrounding community, which may only be found during the evidentiary hearing and made a part of the Findings of Fact.

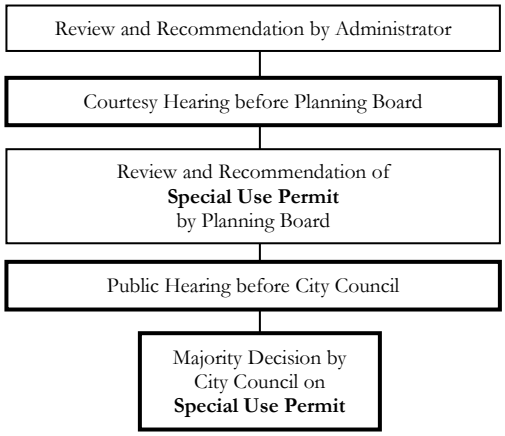
d. Recorded and repeated Code violations.

e. Any non-conformity created by amortization of the permitted use which would only be established as a condition of the permit.

f. Any zoning map amendment to a zoning district that would create a non conformity between the district and associated permit.

G. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Special Use Permit w/ Master Plan (16.4)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Special Use Permit application	n/a
	City Council	Public hearing	n/a
	City Council	Approval of Special Use Permit – **or** – Denial and Request for Rehearing	Superior Court



15.18 Legislative Procedures – General Provisions

A. **Purpose:** The purpose of this Section is to establish uniform procedures for processing matters requiring a legislative approval process.

B. **Amendments and Regulations pertaining to a Watershed District:** Under no circumstances shall the City Council adopt any amendment, addition, or deletion that would cause these regulations to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Any amendment to the boundaries of a Water Supply Watershed District or to the text of this Ordinance related to Watershed Protection shall be referred to the North Carolina Division of Water Quality for their review prior to adoption.

C. **Required Compliance with Adopted Plans:** Zoning regulations and amendments shall be made in accordance with the comprehensive plan and any other applicable officially-adopted plans. Prior to adopting or rejecting any zoning amendment, the City Council shall adopt a statement describing whether its action is consistent with an adopted plan and explaining why the Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The Planning Board shall advise and comment on whether the proposed amendment is consistent with the comprehensive plan and any other applicable officially-adopted plans. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

D. **Protest Petitions**

1. In case of protest against any Land Management and Development Map (zoning map) amendment (rezoning), duly signed by the owners of 5% of the land included within a 100-foot wide buffer around each separate area proposed to be rezoned, such amendment shall not become effective except by a favorable vote of three fourths (3/4) of all the members of the City Council members eligible to vote on the matter (excluding vacancies and those who have a financial conflict of interest and are prohibited by law from voting on the matter) rather than by majority decision. Street rights-of-way are not considered for the 100-foot buffer unless the right-of-way has a width greater than 100 feet. When less than an entire parcel is proposed to be rezoned, the qualifying buffer is measured from the property line rather than the zoning district boundary.

2. No protest against any proposed amendment shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the required number of property owners and stating that the signers do protest the proposed change or amendment. All such petitions shall be filed in the office of the City Clerk for validation at or before 12:00 noon not less than three (3) working days before the date of the City Council meeting.

3. A person filing a protest against a proposed zoning amendment may withdraw the protest any time prior to a vote on the rezoning.

E. City Council Decision: Once the public hearing has been conducted the City Council shall render a decision on the petition. All decisions shall be by simple majority vote unless a valid Protest Petition has been submitted in accordance with Section 15.18.D.

1. A decision concerning a petition for zoning shall be as follows:

a. Grant the zoning as requested; or,

b. Grant the zoning with a reduction in the area requested; or,

c. Grant the zoning to a more restrictive general zoning district; or,

d. Grant the zoning with a combination of b and c above; or,

e. Deny the petition.

2. A decision concerning the petition to amend the text of this Ordinance shall be as follows:

a. Adoption of the amendment as written; or,

b. Adoption of the amendment as revised; or,

c. Rejection of the amendment.

F. Rehearing

1. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the City Council decision.

2. Specific information to enable the City Council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically.

3. A rehearing shall be denied by the City Council, if, in its judgment, such change in facts, evidence or conditions have not been proven.

4. A public hearing shall not be required to be held by the City Council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members.

5. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

G. Appeals: Every legislative decision of the City Council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within

thirty (30) days after the decision of the Council is filed in the office of the City Clerk, or after a written copy is delivered to every aggrieved party who has filed a written request for such copy with the Administrator at the time of the hearing of the case by the City Council, whichever is later.

H. Petition Withdrawal

1. The petitioner may withdraw the petition before submission of the public notice to the newspaper announcing the public hearing.

2. After submission of such notice, a petition may be withdrawn at the discretion of the City Council at the public hearing.

3. No more than two (2) withdrawals may occur on the same parcel or portion of land within a one (1) year period.

4. No petition shall be filed on the same parcel or portion of land within a one (1) year period after the date of the second withdrawal.

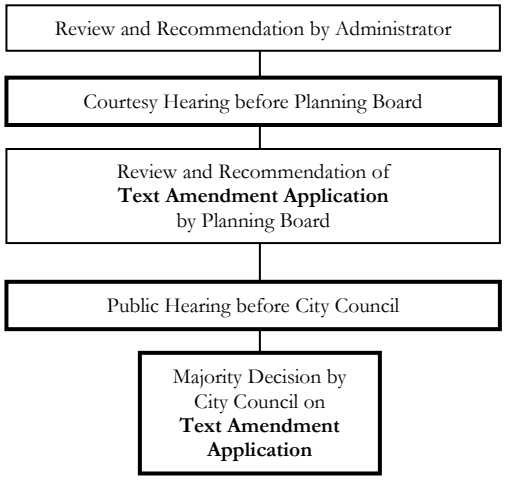
15.19 Text Amendments

A. Purpose: The purpose of this Section is to establish uniform procedures for amending the text of the Ordinance.

B. Application Required: An amendment to the text of this Ordinance may be initiated by the City Council, the Planning Board, the Administrator, or any private citizen by filing an application with the Administrator.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Text Amendment	Technical Review Committee (TRC)	Review submittal procedures and requirements Review for completeness & code compliance Issue Staff Report	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Text Amendment application	n/a
	City Council	Public hearing	n/a
	City Council	Text Amendment Adoption – **or** – Denial and Request for Rehearing	Superior Court



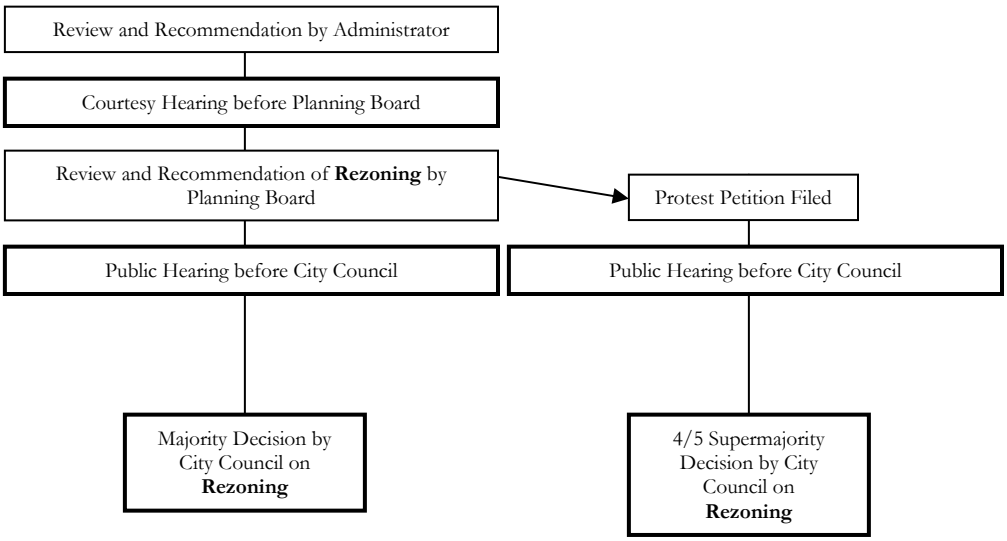
15.20 Map Amendments (Rezonings)

A. Purpose: The purpose of this Section is to establish uniform procedures for amending the zoning classification of land as shown on the Land Management and Development Map (the official zoning map).

B. Petition Required: An amendment to the Official Zoning Map may be initiated by the City Council, the Planning Board, the Administrator, or any private citizen by filing a petition with the Administrator.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Map Amendments (Rezonings)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Rezoning application	n/a
	City Council	Public hearing	n/a
	City Council	Grant Rezoning – **or** - Denial and Request for Rehearing	Superior Court



15.21 Conditional Districts

A. Purpose: The Conditional District (CD) is a floating overlay zoning district that exempts specific ordinance provisions so as to encourage innovative site and building design. Although not measured against all provisions of this ordinance, the City will review CD development in light of the adopted Growth and Comprehensive Plans in order to provide greater certainty as to the resulting project.

The Conditional District is an alternative zoning process that may permit a mixture of land uses and alternative development standards as may be required to address the unique characteristics of an individual property through a Master Plan. The plan shall be designed such that, at a minimum, the location, integration and arrangement of land uses, buildings, structures, utilities, access, transit, parking, and streets collectively yield a context sensitive development. The CD is not intended to relieve hardships that would otherwise be handled using a variance procedure; rather, the CD is intended as a means of accommodating design innovation and market expectations.

When designing a CD Master Plan, the following chapter and/or section provisions are not applicable. The Master Plan may identify any alternatives to those provisions but when a plan is not providing an alternative, the following provisions shall remain applicable.

1. Sections 2.4.D: District Provisions
2. Sections 5.4.A, 5.5, 5.6, and 5.7: Building Types and Standards
   a. Except that Section 5.5.A.4, Provisions for Manufactured Housing, remains applicable.
3. Sections 9.7 and 9.8: Subdivision, Streets, and Connectivity
4. Chapter 10: Parking
5. Chapter 11: Lighting

B. General Requirements:

1. **Case Management:** The Administrator, or their designee, shall assign a case number to all Conditional Districts for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.

2. **Petitioner:** Conditional District zoning shall only be considered upon the request by the owners, or their duly-authorized representatives, of all property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a CD shall be owned or otherwise under the legal control of the person or legal entity which has petitioned for a Conditional District. Such person or entity shall be legally capable of providing a commitment to the city that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the City.

3. **Content of Petition:**

   a. A Conditional District shall consist of the CD Master Plan and any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council. The Master Plan, as a site specific conditional zoning plan, is itself a condition of the Conditional District rezoning.

   b. **Master Plan:** The development concept of all land areas encompassed by a Conditional District shall be adequately described by a Master Plan comprised of scaled drawings and associated reports in accordance with the Development Plan Requirements of Section 16.4.

   c. In addition to the Master Plan, the petitioner shall provide the exact land uses proposed for the Conditional District. Such uses may be selected from any of the uses, whether permitted, by right or conditional, allowed in the general zoning district upon which the Conditional District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional District.

4. **District Uses & Standards:** Within an approved Conditional District, no use shall be permitted except in accordance with the underlying base district, base district provisions, and pursuant to the conditions imposed on the Conditional District in the approval of the rezoning.

5. **Fair and Reasonable Conditions:** The provisions of the CD Master Plan shall replace all conflicting development regulations set forth in this Ordinance which would otherwise apply to the development site. The Planning Board may recommend and the City Council may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any additional requirements proposed by either the Planning Board or the City Council prior to final action.

6. **Decisions:** Decisions by the City Council shall be by majority vote, unless a valid Protest Petition in accordance with Section 15.18.D has been filed, in which case, a three-fourths (3/4) majority vote of eligible members shall be required for approval.

C. **Ability to Proceed:** The applicant may proceed with development only after adoption of the Conditional District ordinance, approval of the Master Plan and all construction documents, and recordation of any applicable plat with the Rowan County Register of Deeds. The development and use of all land within the Conditional District shall be in keeping with the approved Master Plan and all applicable provisions therein.

D. **Final Approval by Stages:** If so reflected on the Master Plan, the City Council may allow the staging of development. Each phase of development shall adhere to all applicable provisions and standards of this ordinance and the applicable CD Master Plan.

E. **Changes:** The following changes to a Conditional District ordinance and/or Master Plan require consideration and approval by City Council. All other changes require consideration and approval by the Planning Board. However, if in the judgment of the Planning Board, the requested changes alter the basic development concept, the Planning Board may require concurrent approval by the City Council.

1. Land area being added or removed from the Conditional District.

2. Modification of special performance criteria, design standards, or other requirements specified by the enacting ordinance.

3. A change in land use or development type beyond that permitted by the enacting ordinance.

4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.

5. When there is an increase in the total number of residential dwelling units originally authorized by the enacting ordinance.

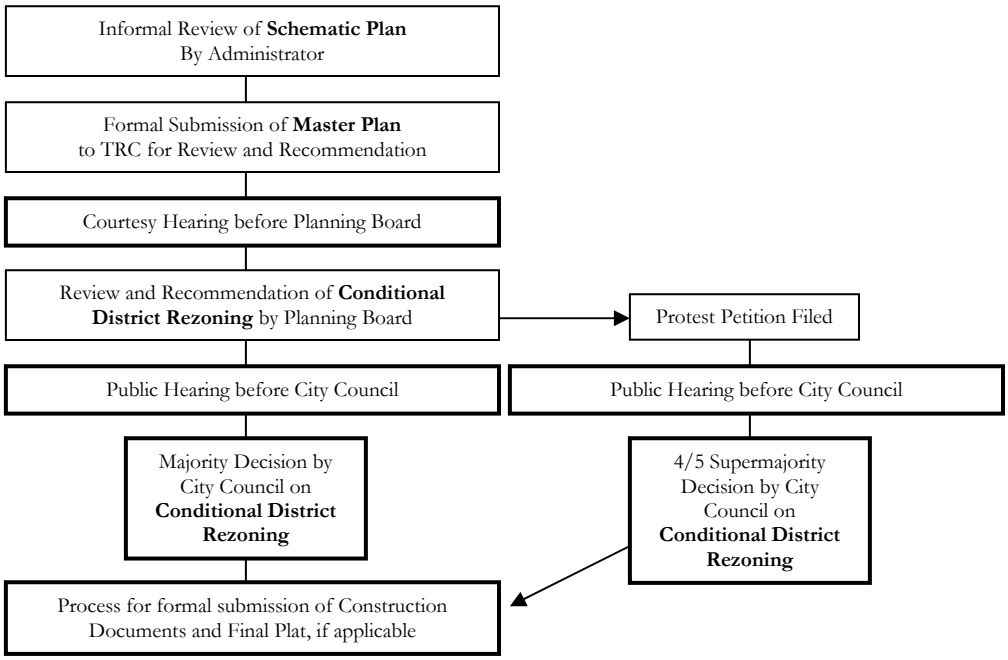
6. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area originally authorized by the enacting ordinance.

7. When City Council mandates their consideration and approval, as a condition of approval, if any change or variation is proposed to the CD Master Plan and enacting ordinance.

F. **Rescission of Conditional District for Non-Development**: The petitioner shall secure a valid building or construction permit(s) within a 24-month period from date of approval of the Conditional District unless otherwise specified. If a valid building or construction permit is not in place at the end of the 24-month period, the Administrator shall notify the petitioner. Within sixty (60) days of notification, the Administrator shall make a recommendation concerning the rescission of the Conditional District to the City Council. The City Council may then rescind the Conditional District, or extend the life of the Conditional District for a specified period of time.

G. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Conditional District Rezoning w/ Master Plan (16.4) (Master Plan may act as Preliminary Plat)	Technical Review Committee (TRC)	Review submittal procedures and requirements Review for Completeness & Ordinance Compliance Issue Staff Report	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Conditional District petition	n/a
	City Council	Public hearing	n/a
	City Council	Adopt Conditional District **– or -** Denial and Request for Rehearing	Superior Court
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued - **or-** Denial and Request for Resubmission	Zoning Board of Adjustment
Final Plat (16.6 & 16.7) (if applicable)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued -**or-** Denial and Request for Resubmission	Zoning Board of Adjustment



15.22 Vested Rights

A. **General Procedures:** Pursuant to G.S.160A-385.1 and not withstanding any other provision or amendment, a landowner may apply for approval of a Site-Specific Development Plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

All requests for Vested Rights shall be accompanied by a copy of the approved Site-Specific Development Plan (Master Plan) in accordance with the provisions of this Chapter. A request to extend Vested Rights to a previously approved Site-Specific Development Plan shall be reviewed and approved by the City Council after notice and public hearing.

B. **City Council Action:** The City Council shall determine whether or not to grant or establish a vested right. The City Council may not require the landowner to waive his vested right as a condition of development approval. The City Council may approve the vested rights for a period greater than two (2) years where it is found that due to (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) market conditions, building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five (5) years from the date of plan approval of the site.

C. **Effect of Approval of Vesting:** The effect of the City Council approving a vested plan shall be to vest such site plan for a period of two (2) years to five (5) years as approved by the City Council from the date of approval.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the previously granted or established vested right.

A vested right, once established shall preclude any zoning action by the City which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved Site-Specific Development Plan except under the following conditions where such rights are terminated and revoked:

1. The affected landowner provides written consent to the City of his desire to terminate the vested right; or,

2. The City determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,

3. Compensation is made by the City to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other

consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,

4. The City determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the City Council of the plan; or,

5. Upon the enactment of a State or Federal law or regulations which precludes development as shown in plan. In such case the City may, after having advertised and conducted a public hearing, modify the affected provisions upon a finding that this change in State or Federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular plan, nothing in this section shall preclude the City from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.

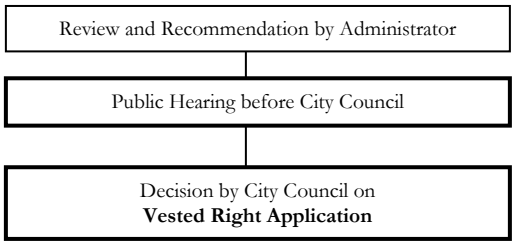
The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the City from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

D. Establishment of Common Law Vesting Plans: Previously approved Site-Specific Development Plans shall be reviewed for compliance and consistency and subsequently approved by the Administrator or designee in accordance with the provisions of this Chapter, providing the proposed Construction Documents for the Site Plan or Subdivision do not deviate from, and is subdivided/developed in accordance with the previously approved site specific plan. Substantial financial investment shall be determined and a good faith effort made to develop proportionate to the approved statutory vested plan.

E. Revocation or Expiration of a Vested Right: The vested right, resulting from the approval of a site-specific development plan, may be revoked by the City Council if the City Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this Ordinance. As prescribed under the provisions of G.S.160A-385.1, the vested right shall otherwise expire at the end of the approval period established by the City Council. A building permit issued by the Rowan County Building Inspector pursuant to G.S. 160A-417 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

F. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Vested Right Application w/Master Plan (16.4)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report	n/a
	City Council	Public hearing	n/a
	City Council	Grant Vested Right Application – **or** - Denial and Request for Rehearing	Superior Court



15.23 Transportation Impact Analysis

A. Transportation impact analyses shall be required for a rezoning, subdivision plan, site plan, special use permit, certificate of zoning compliance, or preliminary plat for developments with an estimated trip generation of 3000 vehicles per day or greater as defined in Section 9.8.A.

B. Procedures:

1. The applicant shall consult with the City Traffic Engineer to determine if a transportation analysis is necessary and its associated parameters.

2. The report shall be submitted to the City Traffic Engineer for distribution to staff and related roadway jurisdictions. The City Engineer shall notify the applicant if additional studies or analysis are necessary.

3. Once a report is determined to be complete, a finding shall be made by the Administrator on the transportation impact analysis. Proceedings on any application that were stayed pending completion of traffic analysis may resume.

C. Report Findings: If a proposed development does not meet the applicable service level standards, one or more of the following actions may be necessary:

1. Reduce the size, scale, scope, or density of the development to decrease traffic generation.

2. Divide the project into phases, and identify specific infrastructure that shall be completed as a prerequisite to specific phases.

3. Dedicate right-of-way for street improvements;

4. Construct new streets;

5. Expand the capacity of existing streets;

6. Redesign ingress and egress to the project to reduce traffic conflicts;

7. Alter the use and type of development to reduce peak hour traffic;

8. Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;

9. Integrate transit and non-motorized mode (i.e. pedestrian and bicycle) design improvements to reduce trip generation;

10. Recommend denial of the application for which the TIA is submitted.

15.24 Stormwater Permit

A. Storm Water Permit Required: A storm water permit is required for all development and redevelopment unless exempt pursuant to the Phase II Stormwater Ordinance, Section 6.7. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

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